



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY

IRDA/LEGAL/ORD/01/06-07

DIRECTIONS UNDER SECTION 64 UM (4) OF THE INSURANCE ACT, 1938 IN THE MATTER OF M/S J.P. EXPORTS, RENIGUNTA REGARDING INSURANCE CLAIM UNDER POLICY NUMBERS 11/6324, 11/30565, 11/30570, 11/6326, 11/6511 ISSUED BY THE NEW INDIA ASSURANCE COMPANY LIMITED, TIRUPATHI.

The case pertains to the alleged loss and damage caused to the stocks of M/s.J.P.Exports, Srikalahasthi Road, Renigunta, Chittoor District, A.P. (herein after referred to as the insured) which is a proprietary concern of Mr.A.J Peters engaged in the business of procuring, processing, storing & exporting of Red Sanders Wood.

The insured had taken out various policies from M/s. New India Assurance Co. Ltd. (herein after referred to as the insurer) bearing No's. 11/6324, 11/30565, 11/30570, 11/6326, 11/6511 for a total amount of Rs.44.50 crores covering the risks against fire.

It is stated that the insured had suffered loss of stock due to fire that occurred on 29.06.1996. The claim of the insured for Rs.35.67 crores was repudiated by the insurer invoking the terms & conditions of the insurance policy and also based on the findings of the investigation and survey reports.

Aggrieved by the repudiation of his claim by the insurer, the insured had approached this Authority which had appointed Mr.Moinuddin Mohammad & Mr.Madhusudan as Joint Surveyors to carry out the survey and loss assessment. The joint surveyors have submitted separate reports and the authority after duly examining the same had directed the insurer to settle the claim for an amount of Rs.2,21,34,819 vide its detailed order dated 02.06.2003 for the reasons stated therein.

The insurer filed an Appeal before the Appellate Authority against the aforesaid order of the Authority dated 02.06.2003. Vide its order dated 05.03.2004, the Appellate Authority had directed this authority to appoint a fresh surveyor for a report on the claim and reconsider the matter on the basis of such report. The Appellate Authority has observed

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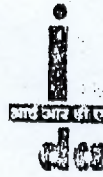
that this authority has powers to interfere even in cases where the claims have been repudiated by the insurance companies and that in the instant case the report of Mr.Madhusudan, one of the surveyors appointed by the authority could not be relied upon as he was stated to be a consultant to the insured prior to his appointment as joint surveyor along with Mr.Moinuddin Mohanimad. Accordingly, it had directed this authority to appoint a fresh surveyor for a report on the claim made by the insured and reconsider the matter.

Notwithstanding the fact that this authority while passing its order dated 02.06.2003 did not consider the report of Mr.Madhusudan and relied on the report of Mr.Moinuddin Mohammad alone for the reasons stated therein, this authority in compliance with the directions of the Appellate Authority dated 30.09.2005 had appointed Mr.N.V.P.Sharma & Mr.R.Srivatsan as joint surveyors to make an assessment on the claim of the insured vide its letter dated 30.11.2005.

The joint surveyors have since submitted their report dated 09.10.2006 which was received by this Authority on 26.10.2006. In their report, the net loss was estimated at Rs.7,95,50,300/- by the joint surveyors. The Survey report of Shri.Sharma & Shri.Srivatsan had assessed the maximum probable quantity of stocks damaged at 292.56 metric tons and the loss is assessed at Rs.7,95,50,300/- based on the quotations obtained from the market.

The basis of valuation of stock is as per the offer made by Mr.K.Jayaraman of M/s.Vani Agencies, Chennai who offered to purchase the stocks @ Rs.2.70 lakhs per metric ton. On such basis, the surveyors assessed the market value of insured stocks at Rs.2.70 lakhs per metric ton for dressed red sanders and at Rs.3 lakhs for finished goods.

I have carefully examined the joint survey report of Shri.Sharma & Srivatsan and that of Mr.Moinuddin Mohammad, Surveyor & Loss Assessor. Upon perusal of both the reports, I tend to agree with the methodology of valuation of stocks adopted by Mr.Moinuddin Mohammad, which is more authentic, scientific, logical and on sound



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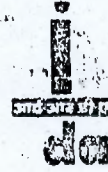
commercial principles based on the findings of the Commissioner of Income Tax (Appeals) and it is considered more appropriate under the facts and circumstances.

Vide order dated 15.05.2001, the Commissioner of Income Tax (Appeals), Vijayawada at Para 12 had recorded as under:

"Therefore, the value of closing stock as on 31.03.1996 (for the accumulated stock of all the three years) put together can be adopted at the value as projected by the appellant at Rs.3,33,30,000/- inclusive of all the expenses incurred by way of commission, transportation, labour charges and other incidental and miscellaneous expenses" (underlining supplied)

I do not find any material to disagree with the aforesaid findings of the Commissioner of Income Tax (Appeals) which has passed a detailed order on the valuation of closing stock as above based on the submissions of the insured and which has been taken into account by the surveyor Shri.Moinuddin Mohammad. On the other hand, valuation of joint surveyors Shri.Sharma & Srivatsan is based on an apparent offer made by one Mr.K.Jayaraman of M/s.Vani Agencies, Chennai. There do not appear to be any other offers / quotations considered by Shri.Sharma & Srivatsan for proper valuation of the closing stock. It is not prudent to arrive at the valuation of the stock only on the basis of a single ostensible offer made by Mr.K.Jayaraman without anything more. The said valuation is not based on any cogent reasons. This is not a scientific mode of valuation of the stocks. In contrast, the valuation of stocks made by Mr.Moinuddin Mohammad is based on the detailed order of the Commissioner of Income Tax (Appeals). The said order including the method and manner of valuation of the stock at Rs.3,33,30,000/- is more plausible and arrived at on sound valuation and accounting principles. The said order is annexed to the survey report of Shri.Moinuddin Mohammad. I agree with the findings on the quantum of loss of stocks and the method & manner of valuing these stock as above by the surveyor Mr.Moinuddin Mohammad and for the sake of brevity do not reproduce the same which is annexed to the survey report as aforesaid.

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From the above examination, having regard to the above germane points and for the aforesaid reasons the Authority notes that the surveyors Shri.Sharma & Srivatsan appointed to carry out a re-survey and re-assessment have not provided any fresh grounds for reconsideration of the claim. This authority agrees with the report of Mr.Moinuddin Mohammad, Surveyor which is based on sound reasoning, accounting principles & considered the detailed order of the Commissioner of Income Tax (Appeals) on the quantum of stocks as well as method & manner of valuation.

In view of the aforesaid discussion, it is concluded that there are no grounds to interfere with the survey and loss assessment made by Shri.Moinuddin Mohammad and taking into account the facts and circumstances of the case and upon careful consideration of material on record, all relevant factors, I am of the considered view that this is not a fit case for issuance of further directions to the insurer who has already settled the claim for Rs.2,21,34,819/-.

The matter is disposed of accordingly.

This order is passed pursuant to and in compliance of the directions of the Appellate Authority dated 30.09.2005.

Hyderabad
1st February, 2007

C S Rao
CHAIRMAN 1-2-07